



General Assembly

February Session, 2008

Amendment

LCO No. 5108

HB0590805108HDO

Offered by:

REP. VILLANO, 91st Dist.

SEN. HARRIS, 5th Dist.

REP. ORANGE, 48th Dist.

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To: Subst. House Bill No. 5908

File No. 481

Cal. No. 265

**"AN ACT CONCERNING PROCEEDINGS AND OPERATIONS OF
THE DEPARTMENT OF CHILDREN AND FAMILIES."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (NEW) (*Effective October 1, 2008*) If the Department of
4 Correction enters into a contract with a person or entity to operate a
5 residential facility for persons under the supervision, care or custody
6 of said department in a facility, institution or home previously
7 operated by a person or entity licensed by the Commissioner of
8 Children and Families pursuant to section 17a-145 of the 2008
9 supplement to the general statutes to care for or board a child, the
10 Commissioner of Correction shall notify the chief executive officer of
11 the municipality in which such facility, institution or home is located.

12 Sec. 2. Subsection (b) of section 17a-28 of the 2008 supplement to the

13 general statutes is repealed and the following is substituted in lieu
14 thereof (*Effective October 1, 2008*):

15 (b) Notwithstanding the provisions of section 1-210 of the 2008
16 supplement to the general statutes, 1-211 or 1-213, records maintained
17 by the department shall be confidential and shall not be disclosed,
18 unless the department receives written consent from the person or as
19 provided in this section. [Such records of any person may only be
20 disclosed, in whole or in part, to any individual, agency, corporation or
21 organization with the consent of the person or as provided in this
22 section.] Any unauthorized disclosure shall be punishable by a fine of
23 not more than one thousand dollars or imprisonment for not more
24 than one year, or both. Any employee of the department who in the
25 ordinary course of such person's employment has reasonable cause to
26 suspect or believe that another employee has engaged in the
27 unauthorized disclosure of records shall report in writing such
28 unauthorized disclosure of records to the commissioner. The report
29 shall include the name of the person disclosing the information, and
30 the nature of the information disclosed and to whom it was disclosed,
31 if known.

32 Sec. 3. Subdivision (1) of subsection (b) of section 4-61dd of the
33 general statutes is repealed and the following is substituted in lieu
34 thereof (*Effective October 1, 2008*):

35 (b) (1) No state officer or employee, as defined in section 4-141, no
36 quasi-public agency officer or employee, no officer or employee of a
37 large state contractor and no appointing authority shall take or
38 threaten to take any personnel action against any state or quasi-public
39 agency employee or any employee of a large state contractor in
40 retaliation for such employee's or contractor's disclosure of
41 information to (A) an employee of the Auditors of Public Accounts or
42 the Attorney General under the provisions of subsection (a) of this
43 section; (B) an employee of the state agency or quasi-public agency
44 where such state officer or employee is employed; (C) an employee of
45 a state agency pursuant to a mandated reporter statute or pursuant to

46 subsection (b) of section 17a-28 of the 2008 supplement to the general
47 statutes, as amended by this act; or (D) in the case of a large state
48 contractor, an employee of the contracting state agency concerning
49 information involving the large state contract.

50 Sec. 4. Section 46b-129 of the 2008 supplement to the general statutes
51 is repealed and the following is substituted in lieu thereof (*Effective*
52 *from passage*):

53 (a) Any selectman, town manager, or town, city or borough welfare
54 department, any probation officer, or the Commissioner of Social
55 Services, the Commissioner of Children and Families or any child-
56 caring institution or agency approved by the Commissioner of
57 Children and Families, a child or such child's representative or
58 attorney or a foster parent of a child, having information that a child or
59 youth is neglected, uncared-for or dependent, may file with the
60 Superior Court that has venue over such matter a verified petition
61 plainly stating such facts as bring the child or youth within the
62 jurisdiction of the court as neglected, uncared-for or dependent, within
63 the meaning of section 46b-120 of the 2008 supplement to the general
64 statutes, the name, date of birth, sex and residence of the child or
65 youth, the name and residence of such child's parents or guardian, and
66 praying for appropriate action by the court in conformity with the
67 provisions of this chapter. Upon the filing of such a petition, except as
68 otherwise provided in subsection (k) of section 17a-112, the court shall
69 cause a summons to be issued requiring the parent or parents or the
70 guardian of the child or youth to appear in court at the time and place
71 named, which summons shall be served not less than fourteen days
72 before the date of the hearing in the manner prescribed by section 46b-
73 128, and the court shall further give notice to the petitioner and to the
74 Commissioner of Children and Families of the time and place when
75 the petition is to be heard not less than fourteen days prior to the
76 hearing in question.

77 (b) If it appears from the specific allegations of the petition and
78 other verified affirmations of fact accompanying the petition and

79 application, or subsequent thereto, that there is reasonable cause to
80 believe that (1) the child or youth is suffering from serious physical
81 illness or serious physical injury or is in immediate physical danger
82 from the child's or youth's surroundings, and (2) that as a result of said
83 conditions, the child's or youth's safety is endangered and immediate
84 removal from such surroundings is necessary to ensure the child's or
85 youth's safety, the court shall either (A) issue an order to the parents or
86 other person having responsibility for the care of the child or youth to
87 [appear] show cause at such time as the court may designate to
88 determine whether the court should vest [in some suitable agency or
89 person] the child's or youth's temporary care and custody in a person
90 related to the child or youth by blood or marriage or in some other
91 person or suitable agency pending disposition of the petition, or (B)
92 issue an order ex parte vesting [in some suitable agency or person] the
93 child's or youth's temporary care and custody in a person related to the
94 child or youth by blood or marriage or in some other person or
95 suitable agency. A preliminary hearing on any ex parte custody order
96 or order to appear issued by the court shall be held not later than ten
97 days after the issuance of such order. The service of such orders may
98 be made by any officer authorized by law to serve process, or by any
99 probation officer appointed in accordance with section 46b-123,
100 investigator from the Department of Administrative Services, state or
101 local police officer or indifferent person. Such orders shall include a
102 conspicuous notice to the respondent written in clear and simple
103 language containing at least the following information: (i) That the
104 order contains allegations that conditions in the home have
105 endangered the safety and welfare of the child or youth; (ii) that a
106 hearing will be held on the date on the form; (iii) that the hearing is the
107 opportunity to present the parents' position concerning the alleged
108 facts; (iv) that an attorney will be appointed for parents who cannot
109 afford an attorney; (v) that such parents may apply for a court-
110 appointed attorney by going in person to the court address on the form
111 and are advised to go as soon as possible in order for the attorney to
112 prepare for the hearing; (vi) that such parents, or a person having
113 responsibility for the care and custody of the child or youth, may

114 request the Commissioner of Children and Families to investigate
115 placing the child or youth with a person related to the child or youth
116 by blood or marriage who might serve as a licensed foster parent,
117 certified relative caregiver or temporary custodian for such child or
118 youth. The commissioner, where practicable, shall investigate such
119 relative or relatives prior to the preliminary hearing and provide a
120 report to the court at such hearing as to such relative's suitability; and
121 [(vi)] (vii) if such parents have any questions concerning the case or
122 appointment of counsel, any such parent is advised to go to the court
123 or call the clerk's office at the court as soon as possible. Upon
124 application for appointed counsel, the court shall promptly determine
125 eligibility and, if the respondent is eligible, promptly appoint counsel.
126 The expense for any temporary care and custody shall be paid by the
127 town in which such child or youth is at the time residing, and such
128 town shall be reimbursed for such expense by the town found liable
129 for the child's or youth's support, except that where a state agency has
130 filed a petition pursuant to the provisions of subsection (a) of this
131 section, the agency shall pay such expense. The agency shall give
132 primary consideration to placing the child or youth in the town where
133 such child or youth resides. The agency shall file in writing with the
134 clerk of the court the reasons for placing the child or youth in a
135 particular placement outside the town where the child or youth
136 resides. Upon issuance of an ex parte order, the court shall provide to
137 the commissioner and the parent or guardian specific steps necessary
138 for each to take to address the ex parte order for the parent or guardian
139 to retain or regain custody of the child or youth. Upon the issuance of
140 such order, or not later than sixty days after the issuance of such order,
141 the court shall make a determination whether the Department of
142 Children and Families made reasonable efforts to keep the child or
143 youth with his or her parents or guardian prior to the issuance of such
144 order and, if such efforts were not made, whether such reasonable
145 efforts were not possible, taking into consideration the child's or
146 youth's best interests, including the child's or youth's health and safety.

147 [(c) In any proceeding under this section, any grandparent of the

148 child may make a motion to intervene and the court shall grant such
149 motion except for good cause shown. Upon the granting of such
150 motion, such grandparent may appear by counsel or in person.]

151 [(d)] (c) The preliminary hearing on the order of temporary custody
152 or order to appear or the first hearing on a petition filed pursuant to
153 subsection (a) of this section shall be held in order for the court to: (1)
154 Advise the parent or guardian of the allegations contained in all
155 petitions and applications that are the subject of the hearing and the
156 parent's or guardian's right to counsel pursuant to subsection (b) of
157 section 46b-135 of the 2008 supplement to the general statutes; (2)
158 assure that an attorney, and where appropriate, a separate guardian ad
159 litem has been appointed to represent the child or youth in accordance
160 with subsection (b) of section 46b-123e of the 2008 supplement to the
161 general statutes and sections 46b-129a and 46b-136 of the 2008
162 supplement to the general statutes; (3) upon request, appoint an
163 attorney to represent the respondent when the respondent is unable to
164 afford representation, in accordance with subsection (b) of section 46b-
165 123e of the 2008 supplement to the general statutes; (4) advise the
166 parent or guardian of the right to a hearing on the petitions and
167 applications, to be held not later than ten days after the date of the
168 preliminary hearing if the hearing is pursuant to an order of temporary
169 custody or an order to show cause; (5) accept a plea regarding the truth
170 of such allegations; (6) make any interim orders, including visitation,
171 that the court determines are in the best interests of the child or youth.
172 The court, after a hearing pursuant to this subsection, shall order
173 specific steps the commissioner and the parent or guardian shall take
174 for the parent or guardian to regain or to retain custody of the child or
175 youth; (7) take steps to determine the identity of the father of the child
176 or youth, including ordering genetic testing, if necessary, and order
177 service of the petition and notice of the hearing date, if any, to be made
178 upon him; (8) if the person named as the father appears, and admits
179 that he is the father, provide him and the mother with the notices that
180 comply with section 17b-27 and provide them with the opportunity to
181 sign a paternity acknowledgment and affirmation on forms that

182 comply with section 17b-27. Such documents shall be executed and
183 filed in accordance with chapter 815y and a copy delivered to the clerk
184 of the superior court for juvenile matters; [and] (9) in the event that the
185 person named as a father appears and denies that he is the father of the
186 child or youth, advise him that he may have no further standing in any
187 proceeding concerning the child, and either order genetic testing to
188 determine paternity or direct him to execute a written denial of
189 paternity on a form promulgated by the Office of the Chief Court
190 Administrator. Upon execution of such a form by the putative father,
191 the court may remove him from the case and afford him no further
192 standing in the case or in any subsequent proceeding regarding the
193 child or youth until such time as paternity is established by formal
194 acknowledgment or adjudication in a court of competent jurisdiction;
195 (10) identify any person or persons related to the child or youth by
196 blood or marriage residing in this state who might serve as licensed
197 foster parents, certified relative caregivers or temporary custodians
198 and order the Commissioner of Children and Families to investigate
199 and determine, not later than thirty days after the preliminary hearing,
200 the appropriateness of placement of the child or youth with such
201 relative or relatives; and (11) in accordance with the provisions of the
202 Interstate Compact on the Placement of Children pursuant to section
203 17a-175, identify any person or persons related to the child or youth by
204 blood or marriage residing out of state who might serve as licensed
205 foster parents, certified relative caregivers or temporary custodians,
206 and order the Commissioner of Children and Families to investigate
207 and determine, within a reasonable time, the appropriateness of
208 placement of the child or youth with such relative or relatives.

209 (d) (1) (A) If not later than thirty days after the preliminary hearing,
210 or within a reasonable time when a relative resides out of state, the
211 Commissioner of Children and Families determines that there is not a
212 suitable person related to the child or youth by blood or marriage who
213 can be licensed as a foster parent or certified as a relative caregiver or
214 serve as a temporary custodian, and the court has not granted
215 temporary custody to a person related to the child or youth by blood

216 or marriage, any person related to the child by blood or marriage may
217 file, not later than ninety days after the date of the preliminary hearing,
218 a motion to intervene for the limited purpose of moving for temporary
219 custody of such child or youth. If a motion to intervene is timely filed,
220 the court shall grant such motion except for good cause shown.

221 (B) Any person related to a child or youth may file a motion to
222 intervene for purposes of seeking temporary custody of a child or
223 youth more than ninety days after the date of the preliminary hearing.
224 The granting of such motion shall be solely in the court's discretion,
225 except that such motion shall be granted absent good cause shown
226 whenever the child's or youth's most recent placement has disrupted
227 or is about to disrupt.

228 (C) A relative shall appear in person, with or without counsel, and
229 shall not be entitled to court appointed counsel or the assignment of
230 counsel by the Chief Child Protection Attorney except as provided in
231 section 46b-136.

232 (2) Upon the granting of intervenor status to such relative of the
233 child or youth, the court shall issue an order directing the
234 Commissioner of Children and Families to conduct a home study of
235 such relative and to file a written report with the court not later than
236 forty days after such order, unless such relative resides out of state, in
237 which case the home study shall be ordered and requested in
238 accordance with the provisions of the Interstate Compact on the
239 Placement of Children, pursuant to section 17a-175. The court may also
240 request such relative to release such relative's medical records,
241 including any psychiatric or psychological records. If such relative
242 refuses to release such records, the court, when necessary, may order
243 such relative to submit to a physical or mental examination. The
244 expenses incurred for such physical or mental examination shall be
245 paid as costs of commitment are paid. Upon receipt of the home study,
246 the court shall schedule a hearing on such relative's motion for
247 temporary custody not later than fifteen days after the receipt of the
248 home study. If the Commissioner of Children and Families, the child's

249 or youth's attorney or guardian ad litem, or the parent or guardian
250 objects to the vesting of temporary custody in such relative, the agency
251 or person objecting at such hearing must prove by a fair
252 preponderance of the evidence that granting temporary custody of the
253 child or youth to such relative would not be in the best interests of
254 such child or youth.

255 (3) If the court grants such relative temporary custody, during the
256 period of such temporary custody, such relative shall be subject to
257 orders of the court, including, but not limited to, providing for the care
258 and supervision of such child or youth and cooperating with the
259 Commissioner of Children and Families in the implementation of
260 treatment and permanency plans and services for such child or youth.
261 The court may, on motion of any party or the court's own motion, after
262 notice and a hearing, terminate such relative's intervenor status if such
263 relative's participation in the case is no longer warranted or necessary.

264 (4) Any person related to a child or youth may file a motion to
265 intervene for purposes of seeking guardianship or permanent custody
266 of a child or youth more than ninety days after the date of the
267 preliminary hearing. The granting of such motion to intervene shall be
268 solely in the court's discretion, except that such motion shall be
269 granted absent good cause shown whenever the child's or youth's most
270 recent placement has disrupted or is about to disrupt. The court may,
271 in the court's discretion, order the Commissioner of Children and
272 Families to conduct a home study of such relative granted intervenor
273 status pursuant to this subdivision.

274 (e) If any parent or guardian fails, after service of such order, to
275 appear at the preliminary hearing, the court may enter or sustain an
276 order of temporary custody.

277 (f) Upon request, or upon its own motion, the court shall schedule a
278 hearing on the order for temporary custody or the order to show cause
279 to be held not later than ten days after the date of the preliminary
280 hearing. Such hearing shall be held on consecutive days except for

281 compelling circumstances or at the request of the parent or guardian.

282 (g) At a contested hearing on the order for temporary custody or
283 order to appear, credible hearsay evidence regarding statements of the
284 child or youth made to a mandated reporter or to a parent may be
285 offered by the parties and admitted by the court upon a finding that
286 the statement is reliable and trustworthy and that admission of such
287 statement is reasonably necessary. A signed statement executed by a
288 mandated reporter under oath may be admitted by the court without
289 the need for the mandated reporter to appear and testify unless called
290 by a respondent or the child, provided the statement: (1) Was provided
291 at the preliminary hearing and promptly upon request to any counsel
292 appearing after the preliminary hearing; (2) reasonably describes the
293 qualifications of the reporter and the nature of his contact with the
294 child; and (3) contains only the direct observations of the reporter, and
295 statements made to the reporter that would be admissible if the
296 reporter were to testify to them in court and any opinions reasonably
297 based thereupon. If a respondent or the child gives notice at the
298 preliminary hearing that he intends to cross-examine the reporter, the
299 person filing the petition shall make the reporter available for such
300 examination at the contested hearing.

301 (h) If any parent or guardian fails, after due notice of the hearing
302 scheduled pursuant to subsection (g) of this section and without good
303 cause, to appear at the scheduled date for a contested hearing on the
304 order of temporary custody or order to appear, the court may enter or
305 sustain an order of temporary custody.

306 (i) When a petition is filed in said court for the commitment of a
307 child or youth, the Commissioner of Children and Families shall make
308 a thorough investigation of the case and shall cause to be made a
309 thorough physical and mental examination of the child or youth if
310 requested by the court. The court after hearing may also order a
311 thorough physical or mental examination, or both, of a parent or
312 guardian whose competency or ability to care for a child or youth
313 before the court is at issue. The expenses incurred in making such

314 physical and mental examinations shall be paid as costs of
315 commitment are paid.

316 (j) Upon finding and adjudging that any child or youth is uncared-
317 for, neglected or dependent, the court may commit such child or youth
318 to the Commissioner of Children and Families. Such commitment shall
319 remain in effect until further order of the court, except that such
320 commitment may be revoked or parental rights terminated at any time
321 by the court, or the court may vest such child's or youth's care and
322 personal custody in any private or public agency that is permitted by
323 law to care for neglected, uncared-for or dependent children or youths
324 or with any other person or persons found to be suitable and worthy of
325 such responsibility by the court, including, but not limited to, any
326 relative of such child or youth by blood or marriage. If the court
327 determines that the commitment should be revoked and the child's or
328 youth's personal custody should vest in someone other than the
329 respondent parent, parents or guardian, or if parental rights are
330 terminated at any time, there shall be a rebuttable presumption that an
331 award of custody or guardianship upon revocation to, or adoption
332 upon termination of parental rights by, any relative who is licensed as
333 a foster parent or certified as a relative caregiver for such child or
334 youth, or who is, pursuant to an order of the court, the temporary
335 custodian of the child or youth at the time of the revocation or
336 termination, shall be in the best interests of the child or youth and that
337 such relative is a suitable and worthy person to assume custody and
338 guardianship upon revocation or to adopt such child or youth upon
339 termination of parental rights, unless it is proven by a preponderance
340 of the evidence that an award of custody or guardianship to, or an
341 adoption by, such relative would not be in the child's or youth's best
342 interests and such relative is not a suitable and worthy person. The
343 court shall order specific steps that the parent must take to facilitate
344 the return of the child or youth to the custody of such parent. The
345 commissioner shall be the guardian of such child or youth for the
346 duration of the commitment, provided the child or youth has not
347 reached the age of eighteen years or, in the case of a child or youth in

348 full-time attendance in a secondary school, a technical school, a college
349 or a state-accredited job training program, provided such child or
350 youth has not reached the age of twenty-one years, by consent of such
351 youth, or until another guardian has been legally appointed, and in
352 like manner, upon such vesting of the care of such child or youth, such
353 other public or private agency or individual shall be the guardian of
354 such child or youth until such child or youth has reached the age of
355 eighteen years or, in the case of a child or youth in full-time attendance
356 in a secondary school, a technical school, a college or a state-accredited
357 job training program, until such child or youth has reached the age of
358 twenty-one years or until another guardian has been legally appointed.
359 The commissioner may place any child or youth so committed to the
360 commissioner in a suitable foster home or in the home of a person
361 related by blood or marriage to such child or youth or in a licensed
362 child-caring institution or in the care and custody of any accredited,
363 licensed or approved child-caring agency, within or without the state,
364 provided a child shall not be placed outside the state except for good
365 cause and unless the parents or guardian of such child are notified in
366 advance of such placement and given an opportunity to be heard, or in
367 a receiving home maintained and operated by the Commissioner of
368 Children and Families. In placing such child or youth, the
369 commissioner shall, if possible, select a home, agency, institution or
370 person of like religious faith to that of a parent of such child or youth,
371 if such faith is known or may be ascertained by reasonable inquiry,
372 provided such home conforms to the standards of said commissioner
373 and the commissioner shall, when placing siblings, if possible, place
374 such children together. As an alternative to commitment, the court
375 may place the child or youth in the custody of the parent or guardian
376 with protective supervision by the Commissioner of Children and
377 Families subject to conditions established by the court. Upon the
378 issuance of an order committing the child or youth to the
379 Commissioner of Children and Families, or not later than sixty days
380 after the issuance of such order, the court shall determine whether the
381 Department of Children and Families made reasonable efforts to keep
382 the child or youth with his or her parents or guardian prior to the

383 issuance of such order and, if such efforts were not made, whether
384 such reasonable efforts were not possible, taking into consideration the
385 child's or youth's best interests, including the child's or youth's health
386 and safety.

387 (k) (1) Nine months after placement of the child or youth in the care
388 and custody of the commissioner pursuant to a voluntary placement
389 agreement, or removal of a child or youth pursuant to section 17a-101g
390 or an order issued by a court of competent jurisdiction, whichever is
391 earlier, the commissioner shall file a motion for review of a
392 permanency plan. Nine months after a permanency plan has been
393 approved by the court pursuant to this subsection, the commissioner
394 shall file a motion for review of the permanency plan. Any party
395 seeking to oppose the commissioner's permanency plan, including a
396 relative of a child or youth by blood or marriage who has intervened
397 pursuant to subsection (d) of this section and is licensed as a foster
398 parent or certified as a relative caregiver for such child or youth or is
399 vested with such child's or youth's temporary custody by order of the
400 court, shall file a motion in opposition not later than thirty days after
401 the filing of the commissioner's motion for review of the permanency
402 plan, which motion shall include the reason therefor. A permanency
403 hearing on any motion for review of the permanency plan shall be held
404 not later than ninety days after the filing of such motion. The court
405 shall hold evidentiary hearings in connection with any contested
406 motion for review of the permanency plan. The commissioner shall
407 have the burden of proving that the proposed permanency plan is in
408 the best interests of the child or youth. After the initial permanency
409 hearing, subsequent permanency hearings shall be held not less
410 frequently than every twelve months while the child or youth remains
411 in the custody of the Commissioner of Children and Families. The
412 court shall provide notice to the child or youth, and the parent or
413 guardian of such child or youth of the time and place of the court
414 hearing on any such motion not less than fourteen days prior to such
415 hearing.

416 (2) At a permanency hearing held in accordance with the provisions

417 of subdivision (1) of this subsection, the court shall approve a
418 permanency plan that is in the best interests of the child or youth and
419 takes into consideration the child's or youth's need for permanency.
420 The child's or youth's health and safety shall be of paramount concern
421 in formulating such plan. Such permanency plan may include the goal
422 of (A) revocation of commitment and reunification of the child or
423 youth with the parent or guardian, with or without protective
424 supervision; (B) transfer of guardianship; (C) long-term foster care
425 with a relative licensed as a foster parent or certified as a relative
426 caregiver; (D) adoption and filing of termination of parental rights; or
427 (E) such other planned permanent living arrangement ordered by the
428 court, provided the Commissioner of Children and Families has
429 documented a compelling reason why it would not be in the best
430 interest of the child or youth for the permanency plan to include the
431 goals in subparagraphs (A) to (D), inclusive, of this subdivision. Such
432 other planned permanent living arrangement may include, but not be
433 limited to, placement of a child or youth in an independent living
434 program or long term foster care with an identified foster parent.

435 (3) At a permanency hearing held in accordance with the provisions
436 of subdivision (1) of this subsection, the court shall review the status of
437 the child, the progress being made to implement the permanency plan,
438 determine a timetable for attaining the permanency plan, determine
439 the services to be provided to the parent if the court approves a
440 permanency plan of reunification and the timetable for such services,
441 and determine whether the commissioner has made reasonable efforts
442 to achieve the permanency plan. The court may revoke commitment if
443 a cause for commitment no longer exists and it is in the best interests of
444 the child or youth.

445 (4) If the court approves the permanency plan of adoption: (A) The
446 Commissioner of Children and Families shall file a petition for
447 termination of parental rights not later than sixty days after such
448 approval if such petition has not previously been filed; (B) the
449 commissioner may conduct a thorough adoption assessment and
450 child-specific recruitment; and (C) the court may order that the child

451 be photo-listed within thirty days if the court determines that such
452 photo-listing is in the best interest of the child. As used in this
453 subdivision, "thorough adoption assessment" means conducting and
454 documenting face-to-face interviews with the child, foster care
455 providers and other significant parties and "child specific recruitment"
456 means recruiting an adoptive placement targeted to meet the
457 individual needs of the specific child, including, but not limited to, use
458 of the media, use of photo-listing services and any other in-state or
459 out-of-state resources that may be used to meet the specific needs of
460 the child, unless there are extenuating circumstances that indicate that
461 such efforts are not in the best interest of the child.

462 (l) The Commissioner of Children and Families shall pay directly to
463 the person or persons furnishing goods or services determined by said
464 commissioner to be necessary for the care and maintenance of such
465 child or youth the reasonable expense thereof, payment to be made at
466 intervals determined by said commissioner; and the Comptroller shall
467 draw his or her order on the Treasurer, from time to time, for such part
468 of the appropriation for care of committed children or youths as may
469 be needed in order to enable the commissioner to make such
470 payments. The commissioner shall include in the department's annual
471 budget a sum estimated to be sufficient to carry out the provisions of
472 this section. Notwithstanding that any such child or youth has income
473 or estate, the commissioner may pay the cost of care and maintenance
474 of such child or youth. The commissioner may bill to and collect from
475 the person in charge of the estate of any child or youth aided under
476 this chapter, or the payee of such child's or youth's income, the total
477 amount expended for care of such child or youth or such portion
478 thereof as any such estate or payee is able to reimburse, provided the
479 commissioner shall not collect from such estate or payee any
480 reimbursement for the cost of care or other expenditures made on
481 behalf of such child or youth from (1) the proceeds of any cause of
482 action received by such child or youth; (2) any lottery proceeds due to
483 such child or youth; (3) any inheritance due to such child or youth; (4)
484 any payment due to such child or youth from a trust other than a trust

485 created pursuant to 42 USC 1396p, as amended from time to time; or
486 (5) the decedent estate of such child or youth.

487 (m) The commissioner, a parent or the child's attorney may file a
488 motion to revoke a commitment, and, upon finding that cause for
489 commitment no longer exists, and that such revocation is in the best
490 interests of such child or youth, the court may revoke the commitment
491 of such child or youth. No such motion shall be filed more often than
492 once every six months.

493 (n) Upon service on the parent, guardian or other person having
494 control of the child or youth of any order issued by the court pursuant
495 to the provisions of subsections (b) and (j) of this section, the child or
496 youth concerned shall be surrendered to the person serving the order
497 who shall forthwith deliver the child or youth to the person, agency,
498 department or institution awarded custody in the order. Upon refusal
499 of the parent, guardian or other person having control of the child or
500 youth to surrender the child or youth as provided in the order, the
501 court may cause a warrant to be issued charging the parent, guardian
502 or other person having control of the child or youth with contempt of
503 court. If the person arrested is found in contempt of court, the court
504 may order such person confined until the person complies with the
505 order, but for not more than six months, or may fine such person not
506 more than five hundred dollars, or both.

507 (o) A foster parent, prospective adoptive parent or relative caregiver
508 shall receive notice and have the right to be heard for the purposes of
509 this section in Superior Court in any proceeding concerning a foster
510 child living with such foster parent, prospective adoptive parent or
511 relative caregiver. A foster parent, prospective adoptive parent or
512 relative caregiver who has cared for a child or youth shall have the
513 right to be heard and comment on the best interests of such child or
514 youth in any proceeding under this section which is brought not more
515 than one year after the last day the foster parent, prospective adoptive
516 parent or relative caregiver provided such care.

517 (p) Upon motion of any sibling of any child committed to the
518 Department of Children and Families pursuant to this section, such
519 sibling shall have the right to be heard concerning visitation with, and
520 placement of, any such child. In awarding any visitation or modifying
521 any placement, the court shall be guided by the best interests of all
522 siblings affected by such determination.

523 (q) The provisions of section 17a-152, regarding placement of a child
524 from another state, and section 17a-175, regarding the Interstate
525 Compact on the Placement of Children, shall apply to placements
526 pursuant to this section.

527 Sec. 5. Section 45a-607 of the 2008 supplement to the general statutes
528 is repealed and the following is substituted in lieu thereof (*Effective*
529 *from passage*):

530 (a) (1) When application has been made for the removal of one or
531 both parents as guardians or of any other guardian of the person of a
532 minor child, or when an application has been made for the termination
533 of the parental rights of any parties who may have parental rights with
534 regard to any minor child, or when, in any proceeding the court has
535 reasonable grounds to believe that any minor child has no guardian of
536 his or her person, the court of probate in which the proceeding is
537 pending may issue an order awarding temporary custody of the minor
538 child to a person other than the parent or guardian, with or without
539 the parent's or guardian's consent, but such order may only be issued
540 in accordance with the provisions of this section. There shall be a
541 rebuttable presumption that the awarding of temporary custody to a
542 relative is in the best interests of such child or youth. This presumption
543 may be rebutted by a preponderance of the evidence that such
544 awarding of custody is not in the best interests of such child or youth.
545 As used in this subsection and subsections (b) and (d) of this section,
546 "relative" means a person related to the child by blood or marriage.

547 (2) In any proceeding under this section, any relative of the minor
548 child may make a motion to intervene and the court shall grant such

549 motion except for good cause shown. Upon the granting of such
550 motion, such relative may appear by counsel or in person.

551 (b) In the case of a minor child in the custody of the parent or other
552 guardian, no application for custody of such minor child may be
553 granted ex parte, except in accordance with subdivision (2) of this
554 subsection. In the case of a minor child in the custody of a person other
555 than the parent or guardian, no application for custody may be
556 granted ex parte, except in accordance with subdivisions (1) to (3),
557 inclusive, of this subsection.

558 (1) An application for immediate temporary custody shall be
559 accompanied by an affidavit made by the custodian of such minor
560 child under penalty of false statement, stating the circumstances under
561 which such custody was obtained, the length of time the affiant has
562 had custody and specific facts which would justify the conclusion that
563 determination cannot await the hearing required by subsection (c) of
564 this section. Upon such application, the court may grant immediate
565 temporary custody to the affiant, a relative, or some other suitable
566 person if the court finds that: (A) The minor child was not taken or
567 kept from the parent, parents or guardian, and (B) there is a substantial
568 likelihood that the minor child will be removed from the jurisdiction
569 prior to a hearing under subsection (c) of this section, or (C) to return
570 the minor child to the parent, parents or guardian would place the
571 minor child in circumstances which would result in serious physical
572 illness or injury, or the threat thereof, or imminent physical danger
573 prior to a hearing under subsection (c) of this section.

574 (2) In the case of a minor child who is hospitalized as a result of
575 serious physical illness or serious physical injury, an application for
576 immediate temporary custody shall contain a certificate signed by two
577 physicians licensed to practice medicine in this state stating that (A)
578 the minor child is in need of immediate medical or surgical treatment,
579 the delay of which would be life threatening, (B) the parent, parents or
580 guardian of the minor child refuses or is unable to consent to such
581 treatment, and (C) determination of the need for temporary custody

582 cannot await notice of hearing. Upon such application, the court may
583 grant immediate temporary custody to a relative or some other
584 suitable person if it finds that (i) a minor child has suffered from
585 serious physical illness or serious physical injury and is in need of
586 immediate medical or surgical treatment, (ii) the parent, parents or
587 guardian refuses to consent to such treatment, and (iii) to delay such
588 treatment would be life threatening.

589 (3) If an order of temporary custody is issued ex parte, notice of the
590 hearing required by subsection (c) of this section shall be given
591 promptly, and the hearing shall be held [within] no later than five
592 business days [of] after the date of such ex parte order of temporary
593 custody, provided the respondent shall be entitled to continuance
594 upon request. Upon the issuance of an order granting temporary
595 custody of the minor child to the Commissioner of Children and
596 Families, or not later than sixty days after the issuance of such order,
597 the court shall make a determination whether the Department of
598 Children and Families made reasonable efforts to keep the minor child
599 with his or her parent, parents or guardian prior to the issuance of
600 such order and, if such efforts were not made, whether such
601 reasonable efforts were not possible, taking into consideration the
602 minor child's best interests, including the minor child's health and
603 safety. Upon issuance of an ex parte order of temporary custody, the
604 court shall promptly notify the Commissioner of Children and
605 Families, who shall cause an investigation to be made forthwith, in
606 accordance with section 17a-101g, and shall present the commissioner's
607 report to the court at the hearing on the application for temporary
608 custody. The hearing on an ex parte order of temporary custody shall
609 not be postponed, except with the consent of the respondent, or, if
610 notice cannot be given as required by this section, a postponement
611 may be ordered by the court for the purpose of a further order of
612 notice.

613 (c) Except as provided in subsection (b) of this section, upon receipt
614 of an application for temporary custody under this section, the court
615 shall promptly set the time and place for a hearing to be held on such

616 application. The court shall order notice of the hearing on temporary
617 custody to be given, at least five days prior to the date of the hearing,
618 to the Commissioner of Children and Families by first class mail and to
619 both parents and to the minor child, if over twelve years of age, by
620 personal service or service at the parent's usual place of abode or the
621 minor's usual place of abode, as the case may be, in accordance with
622 section 52-50, except that in lieu of personal service on, or service at the
623 usual place of abode of, a parent or the father of a minor child born out
624 of wedlock who is either an applicant or who signs under penalty of
625 false statement a written waiver of such service on a form provided by
626 the Probate Court Administrator, the court may order notice to be
627 given by first class mail at least five days prior to the date of the
628 hearing. If the whereabouts of the parents are unknown, or if such
629 delivery cannot reasonably be effected, then notice shall be ordered to
630 be given by publication. Such notice may be combined with the notice
631 under section 45a-609 of the 2008 supplement to the general statutes or
632 with the notice required under section 45a-716 of the 2008 supplement
633 to the general statutes. If the parents are not residents of the state or
634 are absent from the state, the court shall order notice to be given by
635 first class mail at least five days prior to the date of the hearing. If the
636 whereabouts of the parents are unknown, or if delivery cannot
637 reasonably be effected, the court may order notice to be given by
638 publication. Any notice by publication under this subsection shall be in
639 a newspaper which has a circulation at the last-known place of
640 residence of the parents. In either case, such notice shall be given at
641 least five days prior to the date of the hearing, except in the case of
642 notice of a hearing on immediate temporary custody under subsection
643 (b) of this section. If the applicant alleges that the whereabouts of a
644 respondent are unknown, such allegation shall be made under penalty
645 of false statement and shall also state the last-known address of the
646 respondent and the efforts which have been made by the applicant to
647 obtain a current address. The applicant shall have the burden of
648 ascertaining the names and addresses of all parties in interest and of
649 proving to the satisfaction of the court that the applicant used all
650 proper diligence to discover such names and addresses. Except in the

651 case of newspaper notice, such notice shall include: (1) The time and
652 place of the hearing, (2) a copy of the application for removal or
653 application for termination of parental rights, (3) a copy of the motion
654 for temporary custody, (4) any affidavit or verified petition filed with
655 the motion for temporary custody, (5) any other documents filed by
656 the applicant, (6) any other orders or notices made by the court of
657 probate, and (7) any request for investigation by the Department of
658 Children and Families or any other person or agency. Such notice shall
659 also inform the respondent of the right to have an attorney represent
660 the respondent and, if the respondent is unable to obtain or pay for an
661 attorney, the respondent may request the court of probate to appoint
662 an attorney to represent the respondent. Newspaper notice shall
663 include such facts as the court may direct.

664 (d) If, after hearing, the court finds by a fair preponderance of the
665 evidence (1) that the parent or other guardian has performed acts of
666 omission or commission as set forth in section 45a-610, and (2) that,
667 because of such acts, the minor child is suffering from serious physical
668 illness or serious physical injury, or the immediate threat thereof, or is
669 in immediate physical danger, so as to require that temporary custody
670 be granted, the court may order the custody of the minor child to be
671 given to one of the following, taking into consideration the standards
672 set forth in section 45a-617, as amended by this act, and subsection (a)
673 of this section: (A) [The] A relative of such minor child; (B) the
674 Commissioner of Children and Families; [(B)] (C) the board of
675 managers of any child-caring institution or organization; [(C)] (D) any
676 children's home or similar institution licensed or approved by the
677 Commissioner of Children and Families; or [(D)] (E) any other person.
678 The fact that an order of temporary custody may have been issued ex
679 parte under subsection (b) of this section shall be of no weight in a
680 hearing held under this subsection. The burden of proof shall remain
681 upon the applicant to establish the applicant's case. The court may
682 issue the order without taking into consideration the standards set
683 forth in this section and section 45a-610 if the parent or other guardian
684 consents to the temporary removal of the minor child, or the court

685 finds that the minor child has no guardian of his or her person. Upon
686 the issuance of an order giving custody of the minor child to the
687 Commissioner of Children and Families, or not later than sixty days
688 after the issuance of such order, the court shall make a determination
689 whether the Department of Children and Families made reasonable
690 efforts to keep the minor child with his or her parent, parents or
691 guardian prior to the issuance of such order and, if such efforts were
692 not made, whether such reasonable efforts were not possible, taking
693 into consideration the minor child's best interests, including the minor
694 child's health and safety.

695 (e) Such order for temporary custody shall be effective until
696 disposition of the application for removal of parents or guardians as
697 guardian or for termination of parental rights or until a guardian is
698 appointed for a minor child who has no guardian, unless modified or
699 terminated by the court of probate. Any respondent, temporary
700 custodian or attorney for the minor child may petition the court of
701 probate issuing such order at any time for modification or revocation
702 thereof, and such court shall set a hearing upon receipt of such petition
703 in the same manner as subsection (c) of this section. If the court finds
704 after such hearing that the conditions upon which it based its order for
705 temporary custody no longer exist, and that the conditions set forth in
706 subsection (b) of this section do not exist, then the order shall be
707 revoked and the minor child shall be returned to the custody of the
708 parent or guardian.

709 (f) A copy of any order issued under this section shall be mailed
710 immediately to the last known address of the parent or other guardian
711 from whose custody the minor child has been removed.

712 Sec. 6. Section 45a-617 of the general statutes is repealed and the
713 following is substituted in lieu thereof (*Effective October 1, 2008*):

714 When appointing a guardian or coguardians of the person of a
715 minor, the court shall take into consideration the following factors: (1)
716 The ability of the prospective guardian or coguardians to meet, on a

717 continuing day to day basis, the physical, emotional, moral and
 718 educational needs of the minor; (2) the minor's wishes, if he or she is
 719 over the age of twelve or is of sufficient maturity and capable of
 720 forming an intelligent preference; (3) the existence or nonexistence of
 721 an established relationship between the minor and the prospective
 722 guardian or coguardians; and (4) the best interests of the child. There
 723 shall be a rebuttable presumption that appointment of a grandparent
 724 or other relative related by blood or marriage as a guardian is in the
 725 best interests of the minor child.

726 Sec. 7. Subsection (a) of section 17a-11 of the 2008 supplement to the
 727 general statutes is repealed and the following is substituted in lieu
 728 thereof (*Effective October 1, 2008*):

729 (a) The commissioner may, in the commissioner's discretion, admit
 730 to the department on a voluntary basis any child or youth who, in the
 731 commissioner's opinion, could benefit from any of the services offered
 732 or administered by, or under contract with, or otherwise available to,
 733 the department. Application for voluntary admission shall be made in
 734 writing by the parent or guardian of a child under fourteen years of
 735 age or by such person himself or herself if he or she is a child fourteen
 736 years of age or older or a youth. The fact that a parent has applied for
 737 services or received services for his or her child through voluntary
 738 admission shall not be used against the parent (1) in any investigation
 739 conducted by the department in accordance with section 17a-101g, (2)
 740 when making placement decisions for the child, (3) when making
 741 foster care licensing determinations in accordance with section 17a-
 742 114, or (4) in any court proceeding related to the placement of a minor
 743 relative of the parent."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2008</i>	New section
Sec. 2	<i>October 1, 2008</i>	17a-28(b)
Sec. 3	<i>October 1, 2008</i>	4-61dd(b)(1)
Sec. 4	<i>from passage</i>	46b-129

Sec. 5	<i>from passage</i>	45a-607
Sec. 6	<i>October 1, 2008</i>	45a-617
Sec. 7	<i>October 1, 2008</i>	17a-11(a)